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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,311	07/01/2003	Stefan Ehrler	09282.0043-00	3985
60668 7590 12/08/2009 SAP / FINNEGAN, HENDERSON LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER SINGH, GURKANWALJIT				
ART UNIT 3624		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/611,311

Applicant(s)

EHLER ET AL.

Examiner

Gurkanwaljit Singh

Art Unit

3624

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7, 35-41 and 47 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 35-41 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This final Office action is in response to applicant's communication received on August 13, 2009, wherein claims 1-4, 6-7, 35-41 and 47 are currently pending. Claim 5 remains cancelled. Claims 8-34, and 42-46 have been withdrawn due to restriction requirement as stated in the previous actions. Claims 1, 35, 41, and 47 have been amended.

Response to Amendment

2. Applicant's amendments to the claims and the persuasive arguments presented for the 35 USC §112 rejection are sufficient to overcome the 35 USC §112 rejection set forth in the previous Office action.

Response to Arguments

3. Applicant's arguments regarding the 35 USC §103 rejection set forth in the previous Office action have been considered but they are not persuasive.

4. Applicant argues that page 6 of the previous Office action used a reference called "Keller" and therefore the §103 rejection for that limitation is unclear. Examiner respectfully disagrees. The statement of rejection clearly states that the two references for the §103 rejection are Brodersen and Jones. No other reference was mentioned in the statement of rejection. The limitation "determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and

receiving a selection of one of the priority categories from a user" was rejected under 2 KSR rationales. The first rationale (combination of old elements) clearly shows a rejection with Brodersen in view of Jones. A second rationale (TSM) was also used to reject this limitation. The second rationale, which came right after the first rationale and under the same statement of rejection, mistakenly states "Keller". It is clear that the examiner meant to use Brodersen instead of Keller because the second reference Jones is clearly stated and within the KSR rationale Examiner actually cites portion of Brodersen as the reasons for the TSM rationale. Because using Keller instead of Brodersen was a simple and obvious typographical error, the statement of rejection clearly states the correct references, and the fact that a proper "combination of old elements" KSR rationale exists, no new non-final rejection will be given. Both the KSR rationales stand and the Examiner has corrected the obvious typographical error in this Office action.

5. Applicant argues that Jones does not teach the amended limitation of claim 1 "determining a priority value for each of the projects by identifying an importance of the qualifying attributes and receiving an identification of the importance of one of the qualifying attributes from a user." Examiner has considered the Applicant's arguments but these arguments are moot because they are geared towards the newly amended limitation of claim 1. This newly amended limitation is considered for the first time in the rejection below.

However, to expedite prosecution, Examiner will briefly address this argument. Applicant specifically states that Jones does not disclose "identifying an importance of

the qualifying attributes." Examiner respectfully disagrees. Jones discloses in paragraph 0037 (among many other parts of the reference) priority data which shows contractors once they have inputted their participation details. In this example, the participation details are a certain type of qualifying attributes. Additionally, the contractors are placed in chronological order for use of that space, according to this declared priority. Also, giving priority to something (e.g. an attribute) is equivalent to giving that thing (i.e. that attribute) an "importance" value when compared to other attributes (see and compare "important." Dictionary.com Unabridged. Random House, Inc. and "priority." Dictionary.com Unabridged. Random House, Inc.). Furthermore, Jones, on paragraph 0089 discloses priority levels where the priority level with 0 being the highest, dictates a natural order of precedence. Therefore, Jones indeed discloses "identifying an importance of the qualifying attributes."

6. Applicant argues that for claim 35, the secondary reference Jones does not disclose "proposed allocation" and that "there is no disclosure or suggestion in Jones that the alleged 'proposed allocation' is 'based on the identified available human resources.'" However, in the 35 USC §103 rejection set forth in the previous Office action, Examiner specifically stated that this limitation was disclosed in the primary reference Brodersen. Specifically, Examiner stated that "Brodersen discloses presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources, but Brodersen does not explicitly disclose allocation also based the priority value of the project." Examiner further cited appropriate section of Brodersen (which are Figs. 1-6, ¶¶ 0042-0046, 0065,

0083, 0091-0092, 0094, 0100-0105) which disclose this limitation. The secondary reference Jones was only used to reject the portion of the limitation not explicitly disclosed by Brodersen, which is "allocation also based the priority value of the project." Therefore, Applicant's arguments stating that the secondary reference, Jones, does not disclose what the primary reference, Brodersen, discloses are not germane to the issue and are not valid. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-4, 6-7, 35-41 and 47** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodersen et al., (U.S. 2002/0029161) in view of Jones et al., (US 2003/0033187).

As per **claims 1-2, 41, and 47**, Brodersen discloses a computer readable storage medium comprising bearing instructions which when executed by a processor in a computer to cause a the computer to execute (¶ 0028) a method for identifying and

optimizing human resources (Abstract, ¶ 0001, 0014-0028 ["invention matches resources, such as employees"]) for use in business projects (¶ 0001-002, 0041 ["needs of the business"]), the method comprising:

enabling a project manager to search a database for specific human resources (¶ 0014) that may be used for participation in projects (Abstract, ¶¶ 0015-0017), the database containing time periods during which each of the human resources is available and amounts of human resource participation for which the human resources can be used for the projects (¶¶ 0014 ["workload...availability"], 0015-0017),

wherein the projects require two or more resources to complete and the projects are comprised of a set of tasks, each individual task among the set of tasks requiring at least one qualifying attribute that qualifies each resource to perform a given task in the project (¶¶ 0015 ["resources"], 0016 ["evaluated...qualified"], 0017-0028);

the searching comprising matching proposed amounts of human resource participation (Abstract, 0001-0013, and 0014-0028 ["matching....resources"]), proposed time periods (0014-0017 ["availability"]), and the at least one qualifying attribute of the human resource with the available time periods, available amounts of human resource participation, and available qualifying attributes stored in the database for each of the projects (¶¶ 0014-0017 ["availability rules"], 0040-0043, 0046, 0060, 0067, 0088, 0096, 0116);

identifying, based on qualifying attributes necessary to complete each task of each project, available human resources based on the matching (0014-0017 ["availability rules"], 0040-0043, 0046, 0060, 0067, 0088, 0096, 0116).

Although Brodersen discloses ranking tasks (§ 0042-0046 ["weighing...ranking...tasks"], 0070 ["hierarchical"], 0007, 0121), it does not explicitly disclose determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user.

However, Jones discloses determining a priority value for each of the projects by identifying an importance of the qualifying attributes and receiving an identification of the importance of one of the qualifying attributes from a user (§§ 0005, 0010, 0037 ["contractor (user) priority data"... "participation details (qualifying attributes)"], Table 1, 0075, 0085, 0087, 0089 ["priority levels...priority level with 0 being the highest, dictates a natural order of precedence" and that having priority levels is equivalent to showing importance], and claims 2 and 14).

Therefore, it would be obvious to one of ordinary skill in the art to include in the system/method of Brodersen determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user as taught by Jones since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one

of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, it would also been obvious to one of ordinary skill in the art at the time of the invention to include in the assigning of resources to tasks method of Brodersen determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user as taught by Jones, in order to optimally match resource (human resources) with needs and opportunities in a constrained environment (Brodersen: ¶¶ 0009-0014) since doing so could be performed readily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Also, Brodersen discloses presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources, but Brodersen does not explicitly disclose allocation also based the priority value of the project (Figs. 1-6, ¶¶ 0042-0046, 0065, 0083, 0091-0092, 0094, 0100-0105).

However, Jones discloses presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project (¶¶ 0005, 0010, 0037, Table 1, 0075, 0085, 0087, 0089, and claims 2 and 14).

Therefore, it would be obvious to one of ordinary skill in the art to include in the system/method of Brodersen presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project as taught by Jones since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, it would also been obvious to one of ordinary skill in the art at the time of the invention to include in the assigning of resources to tasks method of Brodersen presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project as taught by Jones, in order to optimally match resource (human resources) with needs and opportunities in a constrained environment (Brodersen: ¶¶ 0009-0014) and allow the user to configure tasks and assign resources to the tasks efficiently (Brodersen: ¶¶ 0026-0027, 0041-0044, 0055-0056, 0062, 0067, 0069) since doing so could be performed readily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per **claim 35**, Brodersen discloses a computer readable storage medium comprising bearing instructions which when executed by a processor in a computer to cause a the computer to execute (¶ 0028) a method for identifying and optimizing human resources (Abstract, ¶ 0001, 0014-0028 [“invention matches resources, such as

employees")) for use in business projects (¶ 0001-002, 0041 ["needs of the business"]), the method comprising:

enabling a project manager to search a database for specific human resources (¶ 0014) that may be used for participation in projects (Abstract, ¶¶ 0015-0017), the database containing time periods during which each of the human resources is available and amounts of human resource participation for which the human resources can be used for the projects (¶¶ 0014 ["workload...availability"], 0015-0017),

wherein the projects require two or more resources to complete and the projects are comprised of a set of tasks, each individual task among the set of tasks requiring at least one qualifying attribute that qualifies each resource to perform a given task in the project (¶¶ 0015 ["resources"], 0016 ["evaluated...qualified"], 0017-0028);

the searching comprising matching proposed amounts of human resource participation (Abstract, 0001-0013, and 0014-0028 ["matching....resources"]), proposed time periods (0014-0017 ["availability"]), and the at least one qualifying attribute of the human resource with the available time periods, available amounts of human resource participation, and available qualifying attributes stored in the database for each of the projects (¶¶ 0014-0017 ["availability rules"], 0040-0043, 0046, 0060, 0067, 0088, 0096, 0116);

identifying, based on qualifying attributes necessary to complete each task of each project, available human resources based on the matching (0014-0017 ["availability rules"], 0040-0043, 0046, 0060, 0067, 0088, 0096, 0116).

Although Brodersen discloses ranking tasks (§ 0042-0046 ["weighing...ranking...tasks"], 0070 ["hierarchical"], 0007, 0121), it does not explicitly disclose determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user.

However, Jones discloses determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user (§§ 0005, 0010, 0037, Table 1, 0075, 0085, 0087, 0089, and claims 2 and 14).

Therefore, it would be obvious to one of ordinary skill in the art to include in the system/method of Brodersen determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user as taught by Jones since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, it would also been obvious to one of ordinary skill in the art at the time of the invention to include in the assigning of resources to tasks method of Brodersen determining a priority value for each of the projects by providing priority categories that identify an importance of the projects and receiving a selection of one of the priority categories from a user as taught by Jones, in order to optimally match resource (human resources) with needs and opportunities in a constrained environment (Brodersen: ¶¶ 0009-0014) since doing so could be performed readily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Also, Brodersen discloses presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources, but Brodersen does not explicitly disclose allocation also based the priority value of the project (Figs. 1-6, ¶¶ 0042-0046, 0065, 0083, 0091-0092, 0094, 0100-0105).

However, Jones discloses presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project (¶¶ 0005, 0010, 0037, Table 1, 0075, 0085, 0087, 0089, and claims 2 and 14).

Therefore, it would be obvious to one of ordinary skill in the art to include in the system/method of Brodersen presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project as taught by Jones since the claimed invention is merely a combination of old elements, and in the combination each element merely would have

performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, it would also been obvious to one of ordinary skill in the art at the time of the invention to include in the assigning of resources to tasks method of Brodersen presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project as taught by Jones, in order to optimally match resource (human resources) with needs and opportunities in a constrained environment (Brodersen: ¶¶ 0009-0014) and allow the user to configure tasks and assign resources to the tasks efficiently (Brodersen: ¶¶ 0026-0027, 0041-0044, 0055-0056, 0062, 0067, 0069) since doing so could be performed readily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per **claim 2**, Brodersen discloses the method and system above in which the resources comprise people (disclosed throughout the reference, for example see Abstract, ¶ 0001, 0014-0028 ["employees"]).

As per **claim 3**, Brodersen discloses the method and system above in which the time periods during which each of the resources is available comprise availability (¶¶ 0014-0017 ["availability rules"], 0040-0043, 0046, 0060, 0067, 0088, 0096, 0116).

As per **claim 4**, Brodersen discloses the method and system above in which the amounts of participation for which the resources can be used comprise utilization (¶¶ 0049, 0014-0028).

As per **claim 6**, Brodersen discloses the method and system above also including a selection by a planner of resources to be used for the projects, the selection being made from among the optimized allocation of resources (¶¶ 0041 ["optimization engine"]).

As per **claim 7**, Brodersen discloses the method and system above also including communicating with resources about the selection using a groupware program (¶¶ 0128, 0066, 0014-0028, and 0042-0046).

As per **claim 36**, Brodersen discloses the method and system above in which the attributes comprise qualifying attributes that define qualifications of the human resources (¶¶ 0014 ["invention matches resources, such as employees"], 0015 ["resources"], 0016 ["evaluated...qualified"], 0017-0028, 0138-0139, 0142, 0154).

As per **claim 37**, Brodersen discloses the method and system above in which the attributes comprise capacitive attributes that define time constraints on suitable human resources (¶¶ 0014, 0015-0028).

As per **claim 38**, Brodersen discloses the method and system above in which the capacitive attributes include availability or utilization (¶¶ 0014, 0015-0028).

As per **claim 39**, Brodersen discloses the method and system above also including enabling the project manager to identify the importance of respective qualifying attributes (¶¶ 0046-0048, 0070, 0007, 0121).

As per **claim 40**, Brodersen discloses the method and system above in which the importance can be identified as mandatory or optional for qualification purposes (¶¶ 0042-0048, 0070, 0007, and 0121).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gurkanwaljit Singh whose telephone number is (571)270-5392. The examiner can normally be reached on Monday to Thursday 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571)272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. S./
Examiner, Art Unit 3624
December 2, 2009

/Romain Jeanty/
Primary Examiner, Art Unit 3624